



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

January 28, 2000

Craig M. Engle
General Counsel
National Republican Senatorial Committee
Ronald Reagan Republican Center
425 Second Street, N.E.
Washington, D.C. 20002

Benjamin L. Ginsberg, Esq.
Patton Boggs, L.L.P.
2550 M St., N.W.
Washington, D.C. 20037-1350

RE: MUR 3774
National Republican Senatorial Committee and
Stan Huckaby, as treasurer

Dear Messrs. Engle and Ginsberg:

On January 27, 2000, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on behalf of the National Republican Senatorial Committee ("NRSC") and Stan Huckaby, as treasurer, (collectively, "Respondents") in settlement of the Commission's probable cause findings that Respondents violated 2 U.S.C. §§ 441a(f) and 441b(a), provisions of the Federal Election Campaign Act of 1971, as amended, and 11 C.F.R. §§102.5(a)(1)(i), 106.5(c) and 106.5(g)(1)(i), provisions of the Commission's regulations. Accordingly, the file has been closed in this matter.

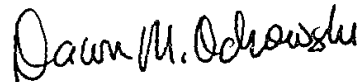
The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

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Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that evidence of the \$88,207.60 transfer from the NRSC's federal account to its non-federal account is due within 30 days of the conciliation agreement's effective date pursuant to Section IX of the agreement. If you have any questions, please contact me at (202) 694-1650.

Sincerely,



Dawn M. Odrowski
Attorney

Enclosure
Conciliation Agreement

2004-04-29 14:17

BEFORE THE FEDERAL ELECTION COMMISSION

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|--|---|----------|
| In the Matter of |) | |
| |) | MUR 3774 |
| National Republican Senatorial Committee and |) | |
| Stan Huckaby, as treasurer |) | |

CONCILIATION AGREEMENT

This matter was initiated by two signed, sworn and notarized complaints by the Democratic Senatorial Campaign Committee ("DSCC"). The Federal Election Commission ("Commission"), found probable cause to believe that the National Republican Senatorial Committee and Stan Huckaby, as treasurer ("Respondents" or "NRSC"), violated 2 U.S.C. §§ 441a(f) and 441b(a) and 11 C.F.R. §§ 102.5(a)(1)(i), 106.5(c) and 106.5(g)(1)(i).

NOW, THEREFORE, the Commission and Respondents, having duly entered into conciliation pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

- I. The Commission has jurisdiction over Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).
- II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- III. Respondents enter voluntarily into this agreement with the Commission.
- IV. The pertinent facts in this matter are as follows:

Respondents

1. Respondent National Republican Senatorial Committee ("NRSC") is a political committee within the meaning of 2 U.S.C. § 431(4).
2. Stan Huckaby is the treasurer of the NRSC.

Entities Receiving NRSC Funds

3. The National Right to Life Committee, Inc. ("NRLC") is a District of Columbia non-profit corporation exempt from federal income taxes under 26 U.S.C. § 501(c)(4). The NRLC promotes pro-life issues and legislation.

4. The American Defense Foundation ("ADF") is a Virginia non-profit corporation exempt from federal income taxes under 26 U.S.C § 501(c)(4). ADF is a related organization of the American Defense Institute ("ADI"), a non-profit corporation exempt from federal income taxes under 26 U.S.C. § 501(c)(3). ADF and ADI operate programs advocating a strong national defense. At all relevant times herein, ADF and ADI operated a "Military Voter Program" aimed at encouraging and assisting military personnel to register and to vote.

5. Coalitions for America ("CFA") is a District of Columbia non-profit corporation exempt from federal income taxes under 26 U.S.C § 501(c)(4). CFA sponsors meetings of leaders involved in conservative issues and causes, and makes monetary grants to conservative issue and action organizations.

6. The National Right to Work Committee ("NRTWC") is an advocacy organization dedicated to the opposition of compulsory unionism.

7. The Christian Coalition is a Virginia non-profit corporation. The Georgia Christian Coalition is a state affiliate of the Christian Coalition.

Applicable Law

8. The Federal Election Campaign Act of 1971, as amended ("the Act"), prohibits corporations and labor organizations from making contributions in connection with Federal elections, and prohibits political committees from knowingly accepting such contributions. 2 U.S.C. § 441b(a). The Act further prohibits political committees established by a national party

committee from accepting in excess of \$20,000 per calendar year from any person.

2 U.S.C. §§ 441a(a)(1)(B).

9. Each organization, including a party committee, which finances political activity in connection with both federal and non-federal elections must follow depository and allocation regulations at 11 C.F.R. §§ 102.5 and 106.5. These rules implement the contribution and expenditure limitations established by 2 U.S.C. §§ 441a and 441b.

10. A party committee, such as the NRSC, that has established separate federal and non-federal accounts must make all disbursements, contributions, expenditures and transfers by the committee in connection with any federal election from its federal account. Only funds subject to the Act's prohibitions and limitations shall be deposited into the federal account. 11 C.F.R. § 102.5(a)(1)(i). See also 11 C.F.R. § 106.5(a).

11. A party committee, such as the NRSC, that makes disbursements in connection with federal and non-federal elections must allocate certain costs, including generic voter drive activities, between its federal and non-federal accounts. 11 C.F.R. § 106.5(a). "Generic voter drives" are defined as "including voter identification, voter registration and get-out-the-vote drives or any other activities that urge the general public to register, vote or support candidates of a particular party or associated with a particular issue, without mentioning a specific candidate." 11 C.F.R. § 106.5(a)(2)(iv).

12. As a Senate campaign committee of a national party, the NRSC must allocate certain costs, including generic voter drives, according to the funds expended method established at 11 C.F.R. § 106.5(c)(1). The NRSC must allocate a minimum of 65% of these costs each year to its federal account. 11 C.F.R. § 106.5(c)(2).

13. The NRSC's non-federal account can accept corporate contributions prohibited by

2 U.S.C. § 441b and contributions in excess of the limits prescribed by 2 U.S.C. § 441a(a).

14. The Federal Election Campaign Act does not, per se, prohibit the disbursement of non-federal funds by a party committee to non-party organizations.

1992 General Election, 1992 General Election Runoff in Georgia
1993 Special Election and 1993 Special Election Runoff in Texas

15. The general election was held November 4, 1992. Thirty-four states held U.S. Senate elections.

16. Between October 2 and October 20, 1992, the NRSC disbursed a total of \$340,000 from its non-federal account to the NRLC, ADF and CFA. Following receipt of the NRSC's funds, the NRLC financed GOTV phone calls targeted to pro-life supporters in fourteen states, ten of which had U.S. Senate elections; ADF directly and through transfers to ADI financed GOTV activities targeted to military personnel with homes of record in six states, all of which had U.S. Senate elections; and CFA made a grant to NRTWC which added a mailing to its Federal Survey Program which sought candidates' positions on right-to-work issues and advised members and supporters of these positions. NRTWC's added mailing consisted of a letter and candidate survey listing the positions of certain House and Senate candidates on right-to-work issues.

17. The 1992 general election runoff for U.S. Senate in Georgia was held on November 24, 1992.

18. Between November 10 and November 17, 1992, the NRSC disbursed a total of \$115,000 from its non-federal account to the NRLC, ADF and CFA. Following the receipt of the NRSC's funds, ADF directly and through transfers to ADI, financed GOTV activities targeted to military personnel in Georgia; the NRLC conducted GOTV phone calls to identified pro-life supporters in Georgia and made contributions to the Christian Coalition and its state affiliate, the Georgia Christian Coalition, which distributed voter guides in the runoff election; and CFA made

a donation to the NRTWC which, in turn, produced two direct mailings to its members and supporters in Georgia concerning the U.S. Senate candidates in the Georgia runoff election.

19. The 1993 special election for U.S. Senate in Texas was held on May 1, 1993.

20. On March 2, 1993, the NRSC disbursed \$170,000 from its non-federal account to ADF.

Following the receipt of NRSC's funds, ADF, directly and through transfers to ADI, financed GOTV activities for the Texas special election targeted to military personnel with homes of record in Texas.

21. The 1993 special election runoff for U.S. Senate in Texas was held on June 5, 1993.

22. On May 26, 1993, the NRSC disbursed \$40,000 from its non-federal account to ADF.

Following receipt of the NRSC's funds, ADF, directly and through transfers to ADI, financed GOTV activities targeted to military voters with homes of record in Texas.

1994 General Election

23. The 1994 general election was held on November 8, 1994. Thirty-four states held U.S. Senate elections.

24. Between October 31 and November 4, 1994, the NRSC disbursed a total of \$175,000 from its non-federal account to the NRLC. These disbursements were made as follows: \$50,000 on October 31; \$50,000 on November 1; \$60,000 on November 3 and \$15,000 on November 4.

25. Following receipt of the NRSC's funds, the NRLC made payments of at least \$135,704 in GOTV phone calls targeted to pro-life supporters in states with elections that included federal candidates, including Pennsylvania and Minnesota. Pro-life supporters receiving the 1994 GOTV calls were first reminded to vote in a U.S. House or Senate election and then informed which particular named U.S. House or Senate candidate(s) supported abortion and which particular named U.S. House or Senate candidate(s) opposed it. Although the scripts did not mention party

affiliation, those federal candidates named who supported abortion were all Democratic candidates, and those federal candidates named who opposed abortion were all Republican candidates.

26. The Commission does not allege in this matter that any Republican candidates violated the Act or any regulations thereunder.

27. The NRSC knew and intended that the non-federal funds it transferred to the NRLC would be used for GOTV activities in connection with elections that included federal candidates. The NRSC considered the pro-life supporters to be key Republican constituencies. Had the NRSC conducted this activity itself, the NRSC would have had to finance these activities with a minimum of 65% federal funds.

28. The NRSC attached a cover letter to each disbursement instructing the NRLC that it could not "utiliz[e] any of this money in any way to influence a federal election" and contends that it did not specifically stipulate how the funds should be used.

V. The Commission found probable cause to believe that Respondents' disbursement of 100% non-federal funds to the NRLC in 1994 which the NRLC used to finance GOTV activities was not in accordance with the Act and the Commission's regulations. Respondents have contended that no such violations occurred under the law and existing regulations or were proved by the record in this matter. However, in order to settle this matter, Respondents will not further contest the Commission's probable cause findings that it violated 2 U.S.C. §§ 441a(f) and 441b(a) and 11 C.F.R. §§ 102.5(a)(1)(i), 106.5(c) and 106.5(g)(1)(i).

VI. To achieve a non-judicial resolution of this matter, Respondents will pay a civil penalty to the Federal Election Commission in the amount of Twenty Thousand Dollars (\$20,000), pursuant to 2 U.S.C. § 437g(a)(5)(A) and Respondents will transfer Eighty-Eight Thousand Two Hundred Seven Dollars and Sixty Cents (\$88,207.60) from its federal account to its non-federal account.

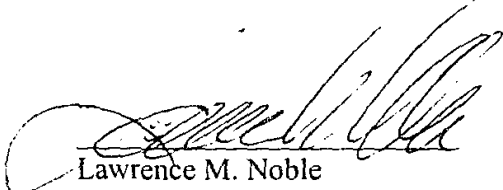
VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:


Lawrence M. Noble
General Counsel

1/28/00
Date

FOR THE RESPONDENTS:


(Name)
(Position)

24 January 00
Date